

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JEREMIAH PARKER, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 22-00454-CV-W-GAF
)	
KEARNEY SCHOOL DISTRICT and)	
DURHAM SCHOOL SERVICES, L.P.,)	
)	
Defendants.)	

ORDER

Now before the Court are Defendant Kearney School District’s (the “District”) Motion to Dismiss (Doc. 8) and Plaintiffs¹ and the District’s “Joint Stipulation of Dismissal with Prejudice.” (Doc. 38). Pursuant to Rule 41(a)(1)(A), a plaintiff may voluntarily dismiss his action without a court order if (i) the plaintiff files a notice of dismissal before the opposing party answers or moves for summary judgment; or (ii) a stipulation of dismissal is signed by *all* parties who have appeared and filed. Fed. R. Civ. P. 41(a)(1)(A). Otherwise, a plaintiff must seek a court order to voluntarily dismiss an action. *Id.* at 41(a)(2).

The “Joint Stipulation of Dismissal with Prejudice” does not comply with Rule 41(a)(1)(A)(ii)’s requirement that it be signed by *all* parties because Defendant Durham School Services, L.P. did not sign the filing. (Doc. 38). As such, the Court construes the filing as a notice of dismissal under Rule 41(a)(1)(A)(i) or a joint motion for order dismissing Plaintiffs’ claims against the District with prejudice under Rule 41(a)(2).

¹ Plaintiffs are Jeremiah Parker; his six minor siblings, by and through their Next Friend, Tiffaney Whitt; and Tiffaney Whitt, individually.

If the “Joint Stipulation of Dismissal with Prejudice” is a notice of dismissal, this Order is not intended to alter the filing’s effect of dismissing Plaintiffs’ claims against the District with prejudice. In the event the filing is a joint motion for dismissal, the Court finds the terms of dismissal are proper and GRANTS dismissal with prejudice.

The voluntary dismissal moots the District’s Motion to Dismiss. Accordingly, the District’s Motion to Dismiss (Doc. 8) is DENIED as moot.

IT IS SO ORDERED.

s/ Gary A. Fenner
GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: May 9, 2023